

AMENDED IN SENATE JULY 17, 2007

AMENDED IN SENATE JUNE 20, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1032

Introduced by Assembly Member Wolk

February 22, 2007

An act to amend Section 5653 of, and to amend, repeal, and add Section 5653.7 of, the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 1032, as amended, Wolk. Dredging: closed waters: native trout: aquatic and amphibian species.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Game. Under existing law, it is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges. The department is authorized to close areas otherwise open for dredging and for which permits have been issued if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources.

The Trout and Steelhead Conservation and Management Planning Act of 1979 finds and declares that it is the policy of the state to establish and maintain wild trout stocks in suitable waters of the state and establish angling regulations designed to maintain the wild trout fishery in those waters by natural reproduction. The act requires the department to determine whether each stream or lake should be managed as a wild trout fishery, or whether its management should involve the planting of trout. The act states the intent of the Legislature that the Fish and Game Commission maintain a specified wild trout program.

Existing law also authorizes the commission to designate “Heritage Trout Waters” to recognize the beauty, diversity, historical significance, and special values of California’s native trout, as defined.

This bill, until January 1, 2014, would close designated wild and heritage trout waters to suction dredging, except as authorized by a site-specific permit approved and issued by the department. The bill would prohibit the department from approving a permit unless it finds that the subject dredging operation will not be deleterious to certain species. The bill would authorize the department to seasonally restrict, limit the size or use of equipment, or close to dredging, an area otherwise opened for dredging and for which a permit has been issued, without regard to water level, if the department determines that it is necessary to protect fish and wildlife resources, including native aquatic, *fish*, or amphibian species listed by the commission as endangered or threatened under the California Endangered Species Act, or species identified by the department as species of special concern.

On and after January 1, 2014, the bill would again authorize the department to close areas otherwise open for dredging and for which permits have been issued, if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5653 of the Fish and Game Code is
- 2 amended to read:
- 3 5653. (a) The use of any vacuum or suction dredge equipment
- 4 by any person in any river, stream, or lake of this state is prohibited,
- 5 except as authorized under a permit issued to that person by the

1 department in compliance with the regulations adopted pursuant
2 to Section 5653.9. Before any person uses any vacuum or suction
3 dredge equipment in any river, stream, or lake of this state, that
4 person shall submit an application for a permit for a vacuum or
5 suction dredge to the department, specifying the type and size of
6 equipment to be used and other information as the department may
7 require.

8 (b) Under the regulations adopted pursuant to Section 5653.9,
9 the department shall designate waters or areas wherein vacuum or
10 suction dredges may be used pursuant to a permit, waters or areas
11 closed to those dredges, the maximum size of those dredges that
12 may be used, and the time of year when those dredges may be
13 used. If the department determines, pursuant to the regulations
14 adopted pursuant to Section 5653.9, that the operation will not be
15 deleterious to fish, it shall issue a permit to the applicant. If any
16 person operates any equipment other than that authorized by the
17 permit or conducts the operation in any waters or area or at any
18 time that is not authorized by the permit, or if any person conducts
19 the operation without securing the permit, that person is guilty of
20 a misdemeanor.

21 (c) The department shall issue a permit upon the payment, in
22 the case of a resident, of a base fee of twenty-five dollars (\$25),
23 as adjusted under Section 713, when an onsite investigation of the
24 project size is not deemed necessary by the department, and a base
25 fee of one hundred thirty dollars (\$130), as adjusted under Section
26 713, when the department deems that an onsite investigation is
27 necessary. In the case of a nonresident, the base fee shall be one
28 hundred dollars (\$100), as adjusted under Section 713, when an
29 onsite investigation is not deemed necessary, and a base fee of two
30 hundred twenty dollars (\$220), as adjusted under Section 713,
31 when an onsite investigation is deemed necessary.

32 (d) It is unlawful to possess a vacuum or suction dredge in areas,
33 or in or within 100 yards of waters, that are closed to the use of
34 vacuum or suction dredges, including, but not limited to, waters
35 closed by the department pursuant to Section 5653.7.

36 SEC. 2. Section 5653.7 of the Fish and Game Code is amended
37 to read:

38 5653.7. (a) Motorized suction dredge mining within Wild and
39 Heritage Trout waters designated pursuant to Section 1726.4 or
40 7260 may ~~only occur~~ *occur only* if authorized by a site-specific

1 permit issued by the department. The department shall ~~only approve~~
2 ~~a permit~~ *approve a permit only* if it finds that the dredging
3 operation will not be deleterious to wild trout and steelhead stocks,
4 or to other native aquatic or amphibian species known to exist in
5 the designated waters, that are listed under state or federal law as
6 threatened or endangered or have been identified by the department
7 as a species of special concern. Notwithstanding Section 5653, the
8 department may establish a separate permit fee to reimburse the
9 department for the costs of administering this subdivision *that*
10 *would be sufficient to cover the costs directly associated with*
11 *administering the site-specific permits authorized by this*
12 *subdivision, but which may not be used to cover the department's*
13 *costs to comply with the court ordered environmental review in*
14 *the case of Karuk Tribe of California et al. v. California*
15 *Department of Fish and Game, Super. Ct. Alameda County Case*
16 *No. RG 05 211597.*

17 (b) Notwithstanding Section 5653.9, if the department
18 determines that it is necessary to protect native aquatic, fish, or
19 amphibian species listed by the commission pursuant to Section
20 2070 or species identified by the department as species of special
21 concern, the department may seasonally restrict, limit the size or
22 use of equipment, or close areas that were otherwise opened for
23 dredging and for which permits were issued pursuant to Section
24 5653. That action is deemed a project within the class of projects
25 designated pursuant to Section 21084 of the Public Resources
26 Code described in Section 15307 of Title 14 of the California Code
27 of Regulations.

28 (c) The Legislature finds and declares that the amendments to
29 this section made during the 2007–08 Regular Session apply solely
30 to suction dredging activities conducted for instream goldmining
31 purposes. This section does not expand or provide new authority
32 for the department to close or regulate dredging conducted for
33 flood control or navigational purposes governed by other state or
34 federal law.

35 (d) This section does not prohibit or restrict nonmotorized
36 recreational mining activities, such as gold panning.

37 (e) This section shall remain in effect only until January 1, 2014,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2014, deletes or extends that date.

1 SEC. 3. Section 5653.7 is added to the Fish and Game Code,
2 to read:

3 5653.7. (a) In the event of an unanticipated water level change,
4 if the department determines that it is necessary to protect fish and
5 wildlife resources, the department may close areas that were
6 otherwise opened for dredging and for which permits were issued
7 pursuant to Section 5653.

8 (b) This section shall become operative on January 1, 2014.

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